

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

MARC VEASEY, *et al.*,

Plaintiffs,

v.

RICK PERRY, *et al.*,

Defendants.

Civil Action No. 2:13-cv-193 (NGR)

UNITED STATES OF AMERICA,

Plaintiff,

TEXAS LEAGUE OF YOUNG VOTERS
EDUCATION FUND, *et al.*,

Plaintiff-Intervenors,

TEXAS ASSOCIATION OF HISPANIC
COUNTY JUDGES AND COUNTY
COMMISSIONERS, *et al.*,

Plaintiff-Intervenors,

v.

STATE OF TEXAS, *et al.*,

Defendants.

Civil Action No. 2:13-cv-263 (NGR)

TEXAS STATE CONFERENCE OF NAACP
BRANCHES, *et al.*,

Plaintiffs,

v.

NANDITA BERRY, *et al.*,

Defendants.

Civil Action No. 2:13-cv-291 (NGR)

BELINDA ORTIZ, *et al.*,

Plaintiffs,

v.

STATE OF TEXAS, *et al.*,

Defendants

Civil Action No. 2:13-cv-348 (NGR)

**JOINT RESPONSE BY ALL PRIVATE PLAINTIFFS AND PLAINTIFF-
INTERVENORS IN OPPOSITION TO DEFENDANTS' REQUEST FOR JUDICIAL
NOTICE OF "A REVIEW OF THE OPERATIONS OF THE VOTING SECTION OF
THE CIVIL RIGHTS DIVISION"**

This Brief is submitted on behalf of all private Plaintiffs and Plaintiff-Intervenors ("Plaintiffs")¹ in these consolidated cases in opposition to Defendants' Request for Judicial Notice of "A Review of the Operations of the Voting Section of the Civil Rights Division" ("the

¹ The Plaintiffs joining in this brief are the Texas State Conference of NAACP Branches, the Mexican American Legislative Caucus of the Texas House of Representatives, the Texas Association of Hispanic County Judges and County Commissioners, Hidalgo County, the Texas League of Young Voters Education Fund, Imani Clark, Michelle Bessiake, Estela Garcia Espinosa, Lionel Estrada, La Union Del Pueblo Entero, Inc., Lydia Lara, Margarito Martinez Lara, Maximina Martinez Lara, Eulalio Mendez, Jr., Belinda Ortiz, Lenard Taylor, Marc Veasey, Floyd James Carrier, Anna Burns, Michael Montez, Penny Pope, Jane Hamilton, Sergio DeLeon, Oscar Ortiz, Koby Ozias, John Mellor-Crummey, Jane Doe, James Doe, the League of United Latin American Citizens ("LULAC") and Dallas County, Texas.

Report”) (ECF No. 272). This Court should deny Defendants’ Request because it appears to be an improper attempt to present an irrelevant and *ad hominem* challenge to the bona fides of counsel for the United States.

A. JUDICIAL NOTICE MAY BE TAKEN OF ONLY RELEVANT EVIDENCE AND THE REPORT IS IRRELEVANT

As a threshold matter, it is highly doubtful the Court may take notice of any factual assertions made in the Report under Federal Rule of Evidence 201. “[C]ourts generally cannot take notice of findings of fact from other proceedings for the truth asserted therein because these are disputable and usually are disputed.” *Taylor v. Charter Med. Corp.*, 162 F.3d 827, 830 (5th Cir. 1998). That principle has been applied to inspector general reports. *See, e.g., Cnty. of San Miguel v. Kempthorne*, 587 F. Supp. 2d 64, 78 (D.D.C. 2008) (“The Inspector General’s report is not the type of document about which there can be no reasonable dispute. The Court knows nothing about the investigative process which led to the report’s conclusions, and it cannot access the report’s validity or be assured that the former Deputy Assistant Secretary received adequate notice and the opportunity to be heard on its contents.”).

This Court need not address those Rule 201 questions, however. Even if judicial notice is proper under Rule 201, the Report and the assertions in the Report must meet the basic threshold of relevance, applicable to all proffered evidence. *See Vallot v. Cent. Gulf Lines, Inc.*, 641 F.2d 347, 351 (5th Cir. 1981) (affirming rejection of request for judicial notice because proffered evidence was not relevant). The Report bears no relevance to any issue in this case.

These consolidated lawsuits address whether SB 14, as enacted and implemented, violates Section 2 of the Voting Rights Act, 42 U.S.C. § 1973, and/or the Fourteenth or Fifteenth Amendments. As such, the evidence in this case will focus on the process leading to the enactment of SB 14 (including efforts to enact a photo ID requirement in several legislative

sessions, and any post-enactment legislative activity), whether SB 14 results in a denial or abridgement of the right to vote on account of race, color, or membership in a language minority group, and whether SB14 otherwise violates the right to vote. There is no claim against counsel representing any parties in these cases, and thus no claim against the Department of Justice, its Civil Rights Division, or its Voting Rights Section.

The Report as to which Texas seeks judicial notice was issued by the Office of the Inspector General, responding to allegations of political bias in DOJ's handling of investigations and cases relating to the Voting Rights Act under both the Bush and Obama Administrations. There are no facts mentioned in the Report relevant to SB 14, and, indeed, the issue of the photo ID law in Texas is never mentioned in the Inspector General's Report.

Plaintiffs fail to understand how it may be argued that any matter purportedly relating to the bona fides of opposing counsel is relevant to this litigation, and Plaintiffs are deeply troubled by Texas's effort to interject this question into this litigation. Plaintiffs respectfully request that this Court deny Defendants' Request for Judicial Notice.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on May 13, 2014, I served a true and correct copy of the foregoing
via the Court's ECF system on all counsel of record.

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